

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BELLE VERNON AREA SCHOOL DISTRICT,

Plaintiff,

Civil Action No. 2:23-cv-706

v.

TREMCO INCORPORATED,

Defendant.

**Electronically Filed**

**NOTICE OF REMOVAL**

NOW COMES, Defendant, Tremco Incorporated (“Tremco”), by and through its undersigned attorneys, and files this Notice of Removal to remove Case No. 2058 of 2021 from the Court of Common Pleas of Fayette County, Pennsylvania (the “State Court Action”) to the United States District Court for the Western District of Pennsylvania, pursuant to 28 U.S.C. §§ 1332, 1441(a) and 1446(a), and in support thereof states as follows:

1. Plaintiff Belle Vernon Area School District (hereinafter “Belle Vernon”) initiated this action on November 8, 2021 by filing a Praecipe for Writ of Summons in the Court of Common Pleas of Fayette County, Pennsylvania at Case No. 2058 of 2021.

2. On April 4, 2023, Belle Vernon filed a Complaint in the State Court. A true and correct copy of Plaintiff’s Complaint is appended hereto as **Exhibit A**.

3. Pursuant to 28 U.S.C. § 1446(a), certified or attested copies of all records and docket entries which were filed in the State Court Action are attached hereto as **Exhibit B**.

4. Plaintiff's Complaint presents claims sounding in breach of contract allegedly arising from a bus canopy project at Marion Elementary School, which failed. (See Exhibit A.).

5. This action is between parties of diverse citizenship. Specifically,

- a. Plaintiff Belle Vernon Area School District was and is a legal entity organized and existing under the School Code of the Commonwealth of Pennsylvania, with a principal place of business in Belle Vernon, Pennsylvania. **Belle Vernon Area School District, thus, is a citizen of Pennsylvania.**
- b. Tremco is a corporation organized and existing under the laws of the State of Ohio, which maintains its principal place of business at 3735 Green Road, Beachwood, Ohio 44122. **Tremco, thus, is a citizen of Ohio.**

6. It is believed this action concerns an amount in controversy exceeding the sum or value of \$75,000.00, exclusive of interest and cost. Specifically, and per the Complaint, Plaintiff represents it is seeking damages for: (1) the cost to replace the bus canopy, which was last quoted as \$76,600.00; 2) the costs to repair damage to the main building structure, roof, and facade; 3) the costs to remove and remediate the existing canopy, and 4) loss of use of the canopy.

7. Taking both a recent quote to provide a replacement canopy of \$76,600.00, in addition to claims for property damage and loss of use related to the alleged failure of the bus canopy, Tremco reasonably believes this action concerns an amount in controversy exceeding this Court's jurisdictional threshold.

8. This Notice of Removal is timely filed within thirty (30) days of service of the Complaint, which is the first paper from which it could be ascertained that the case is one which is removable. *See Sikirica v. Nationwide Ins. Co.*, 416 F. 3d 214 (3d Cir. 2005) (holding

a Writ of Summons does not provide sufficient information to determine whether a case is removable).

9. The current action pending in the Court of Common Pleas of Fayette County, Pennsylvania is within the jurisdiction of the United States District Court for the Western District of Pennsylvania.

10. This action, thus, is one over which the District Courts of the United States possess original jurisdiction pursuant to 28 U.S.C. § 1332(a): there exists complete diversity of citizenship between Plaintiff and Tremco, and the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and cost..

11. Written notice of the filing of this Notice of Removal will be promptly served upon counsel for Plaintiff after the filing of the same with the United States District Court for the Western District of Pennsylvania, as required by law.

12. Additionally, a true and correct copy of this Notice of Removal will be filed with the Court of Common Pleas of Fayette County, Pennsylvania promptly after the filing of this Notice with the United States District Court for the Western District of Pennsylvania, as required by law.

13. By filing this Notice of Removal, Tremco does not waive any defense which may be available to it, and Tremco demands a jury trial in this action.

WHEREFORE, Defendant, Tremco Incorporated, respectfully requests this Honorable Court assume subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1332 and 1441 *et seq.*

**JURY TRIAL DEMANDED**

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By: /s/Michael P. Flynn  
Michael P. Flynn, Esquire  
PA 78529  
Paul A. Roman, Jr., Esquire  
PA 318855  
Two PPG Place, Suite 400  
Pittsburgh, PA 15222-5402  
(412) 281-7272

Counsel for Defendant,  
Tremco Incorporated

**CERTIFICATE OF SERVICE**

I, Michael P. Flynn, Esquire hereby certify that a true and correct copy of the foregoing Notice of Removal has been served on this 28th day of April, 2022, by First Class U.S. Mail, postage prepaid, upon the following:

Amy R. Schrempf, Esquire  
ANDREWS AND PRICE, LLC  
1500 Ardmore Blvd., Suite 506  
Pittsburgh, PA 15221

Joseph W. Cavrich, Esquire  
Suite 601  
Two Chatham Center  
Pittsburgh, PA 15219-3448

*Counsel for Plaintiff  
Belle Vernon Area School District*

DICKIE, MCCAMEY & CHILCOTE, P.C.

By: /s/Michael P. Flynn  
Michael P. Flynn, Esquire

Counsel for Defendant,  
Tremco Incorporated